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December 16, 2014

**Via Overnight Delivery & ECF**  
Honorable Robert E. Gerber  
United States Bankruptcy Judge  
United States Bankruptcy Court  
One Bowling Green  
New York, New York 10004

Re: *In re Motors Liquidation Company (Case No. 09-50026 (REG))*  
*Groman v. General Motors LLC (Adv. Pro. No. 14-01929 (REG))*

Dear Judge Gerber:

We are co-counsel to plaintiffs (the “**Groman Plaintiffs**”) in the above-captioned adversary proceeding. We write to request the Court’s leave to file the attached 5 1/2-page response to that part of GM’s Opening Brief concerning the appropriate legal standard for proving “fraud on the court.” [Dkt. No. 12981 at 76-79] We have conferred with Designated Counsel, counsel for the GUC Trust, counsel for the Unitholders, and counsel for GM about this request, and none objects to it.

By Order dated July 11, 2014 (the “**July Supplemental Scheduling Order**”),<sup>1</sup> the Court ordered “that Counsel for the Identified Parties, as part of the briefing on the Four Threshold Issues, shall also brief the legal standard applicable to the Fraud on the Court Threshold Issue” and established a briefing schedule for these issues.<sup>2</sup> [Dkt. No. 12770 at 3, 5] By Endorsed Order entered on August 4, 2014, the Court ordered that “Responses to the New GM Opening Brief shall be no more than: (i) 80 pages for Designated Counsel and the Groman Plaintiffs *collectively* . . .” [Dkt. No. 12810 at 2 (emphasis added)]

Designated Counsel and counsel for the Groman Plaintiffs agreed that the Groman Plaintiffs would be responsible for drafting the collective response concerning the fraud on the

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<sup>1</sup> All terms not defined herein shall have the same meaning ascribed to such terms in the July Supplemental Scheduling Order.

<sup>2</sup> “Counsel for the Identified Parties” are counsel for New GM, Designated Counsel, counsel for the Groman Plaintiffs, counsel for the GUC Trust, and counsel for the Unitholders.” See May 16, 2014 Scheduling Order [Dkt. No. 12697 at Sections 2(a, c) & n.3]

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court legal standard. Although we provided that section to Designated Counsel on December 8, 2014, yesterday morning we were advised that despite our agreement, Designated Counsel would not include our section in the collective brief. The draft of the brief that Designated Counsel circulated to plaintiffs' counsel previously in accordance with the Court's Order was 80 pages, 3 1/2 of which were devoted to the legal standard for fraud on the court. Designated Counsel confirmed this morning that they would not accept any of the Groman Plaintiffs' proposed revisions to the section on the legal standard and stated that the Groman Plaintiffs should file a separate submission with the Court.

Because our response addresses important substantive material issues that are not included in Designated Counsel's and which we believe will be helpful to the Court in determining the proper legal standard applicable to fraud on the court, the Groman Plaintiffs respectfully request leave to file the attached brief as part of the Designated Counsels' and the Groman Plaintiffs' collective response to the New GM Opening Brief.

Respectfully submitted,



S. Preston Ricardo

cc: (via e-mail)  
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